

Serial No.: 10/065,282
Attorney Docket No.: F-522

Patent
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:) Attorney Docket No.: F-522
John F. Braun, et al.) Customer No.: 00919
Serial No.: 10/065,282)
Filed: September 30, 2002) Examiner: NGUYEN, Kimhung T.
Confirmation # 5697) Group Art Unit: 2629
Date: June 19, 2007

Title: METHOD AND SYSTEM FOR CREATING A DOCUMENT HAVING
METADATA

Mail Stop Appeal Brief- Patents
Commissioner for Patents
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL

Sir:

This is an appeal pursuant to 35 U.S.C. § 134 and 37 C.F.R. §§ 41.31 et seq. from the final rejection of claims 1-3 and 5-17 of the above-identified application mailed December 19, 2006. This Brief is in furtherance of the Notice of Appeal filed in this case on March 19, 2007. A petition and fee for a one-month extension of time to respond is transmitted herewith. Accordingly, this brief is timely filed. The fee for submitting this Brief is \$500.00 (37 C.F.R. § 1.17(c)). Please charge Deposit Account No. 16-1885 in the amount of \$500.00 to cover these fees. The Commissioner is hereby authorized to charge any additional fees that may be required for this appeal or to make this brief timely or credit any overpayment to Deposit Account No. 16-1885.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, on June 19, 2007 (Date of Transmission).

George M. Macdonald, Reg. No. 39,284 (Name of Registered Rep.)

 (Signature)

June 19, 2007 (Date)

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I. Real Party in Interest

The real party in interest in this appeal is Pitney Bowes Inc., a Delaware corporation, the assignee of this application.

II. Related Appeals and Interferences

There are no appeals or interferences known to Appellant, his legal representative, or the assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. Status of Claims

Claims 1-3 and 5-17 are in the case and under final rejection of the Examiner.

Claims 4 and 18-20 are canceled.

Claims 21-24 are in the case and stand allowed.

Claims 1-3 and 5-17 are in the case and under final rejection of the Examiner and stand rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by U.S. Patent No. 6,681,045 B1 to Lapstun, et al. ("Lapstun '045") in view of U.S. Patent No. 6,941,510 B1 to Ozzie, et al. ("Ozzie '510").

Appellants hereby appeal the final rejection of claims 1-3 and 5-17.

IV. Status of Amendments

There are no amendments to the claims filed subsequently to the Final Office Action of December 19, 2006. Therefore, the claims set forth in Appendix A to this brief are those as set forth before the final rejection.

V. Summary of Claimed Subject Matter

Appellants' invention as presently claimed relates generally to systems and methods for creating a document having metadata wherein the metadata storage device is attached to the document. A pointing device such as a digital pen is utilized to capture pen stroke data and obtain metadata associated with the document. In one

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configuration, the digital pen then writes to the metadata storage device attached to the document. Specification at ¶ 5.

Independent claim 1 recites:

1. A method for associating metadata with a document having a metadata dynamic read-write storage device attached to the document comprising:
 - initializing a pointing instrument for capturing pen stroke data using the document;
 - processing pen stroke data in a normal data capture mode using the document;
 - recognizing a metadata mode;
 - then capturing pen stroke metadata data using the pointing instrument using the document;
 - sending the metadata data to a processor;
 - then receiving processed metadata created using the metadata from the processor; and
 - then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.

As shown in Fig. 2, an "augmented" document 200 used in the method that includes an Anoto pattern 202 and a metadata input section 204. There is a start process box 218 and an attached metadata storage device such as an rf-id tag 270. Specification at ¶ 40.

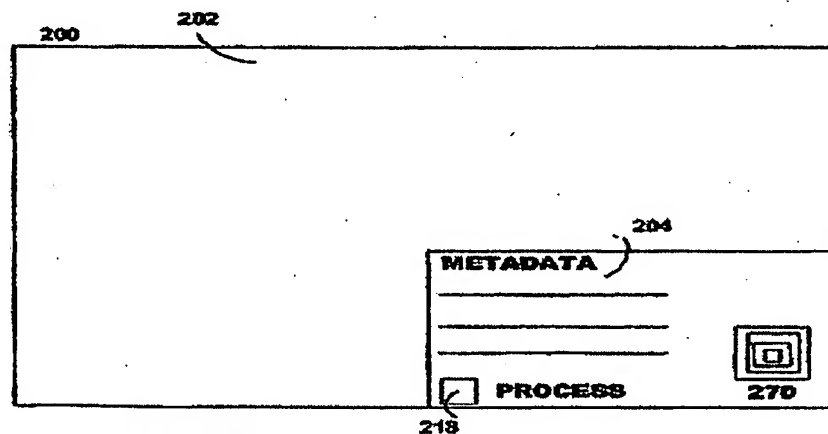


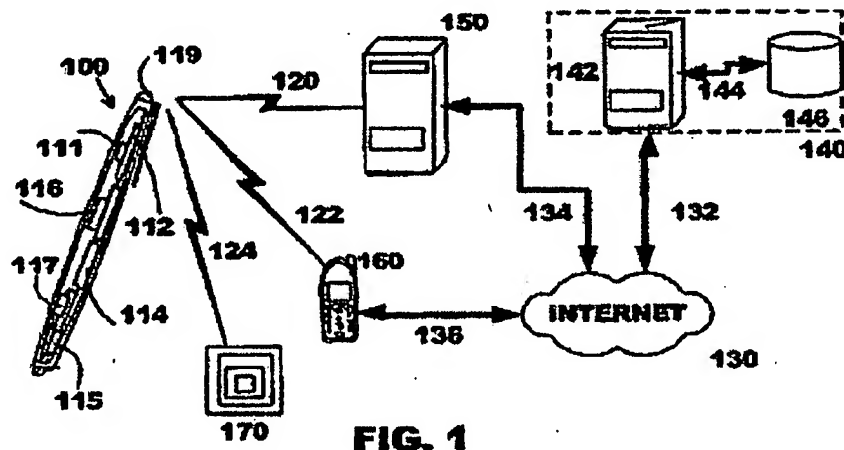
FIG. 2

Referring to Fig. 1, an illustrative digital pen system used with the method to process the augmented document 200 is shown. The Digital Pen 100 includes a

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processor 114, memory 112, ink 117, a camera or image sensor 115, a battery 116 and a wireless transceiver 111. The pen may capture user strokes and biometric information. The pen optionally includes an rf-id tag writing subsystem for writing to an active or passive rf-id tag adhered to the document. The rf-id tag is preferable adhered to the document with semi-permanent glue that can be removed with a solvent.



The illustrative system includes at least one pen 100 that establishes a personal area network. A router or other processor 150 may wirelessly connect to the pen and provide a gateway to the Internet 130. The paired device may alternatively include a cellular telephone or PDA 160 connected to the Internet.

The illustrative system includes a server 140 connected to the Internet 130 that hosts a form version database that is periodically downloaded to the pen 100. The Server 140 or processor 150 may also be utilized for other digital pen back end activities including pen stroke data analysis and background pattern lookup services. Specification at ¶¶ 27-39.

Referring to Fig. 3A, a flow chart of an illustrative process 300 for producing an "Informed" Document (InfoDoc) is shown. The process 300 starts in step 305 and proceeds to initialization in step 310 in which the process receives pen strokes. In step 315, the process polls for a metadata mode such as metadata entry strokes. The process proceeds to step 320 to determine if a process command has been entered using process box 218. If so, the metadata entered in step 315 is sent to an external

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processor 150 in step 325. In step 330 the process receives a metadata message from processor 150 and programs the metadata message into metadata storage device 270.

The metadata may exist in two places. First, there is one copy in the rf-id tag and the second is in the e-copy. The e-copy can be stored either separately or as part of the electronic copy of the physical document if one exists. The two pieces of metadata are not necessarily the same. The storage capacity of the storage device might limit the amount of data that can be stored and the tag could store as little as a unique id number. The metadata may be an e-copy including an electronic copy of the document and the metadata information.

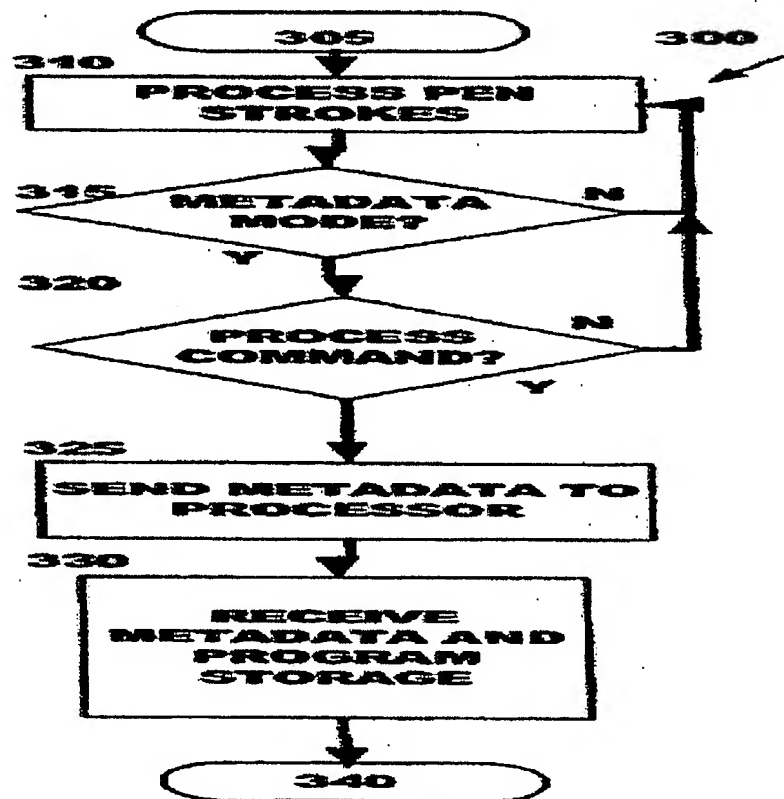


FIG. 3A

In order to create an InfoDoc, the user starts with a blank augmented document. As the user writes onto the augmented document 200, the pen captures what is written on the document in area 202. After the user is done writing the document, the user fills

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in certain metadata fields regarding the document on an area 204 of the document 200 allocated for metadata. The pen also captures the written metadata. When the user is ready to process the augmented data, the user checks the Process box 218. The pen then sends the written data and metadata to a processor 150 using a wireless communications channel 120. The written data is then either converted to text or imaged. This converted data is considered the electronic document portion of the e-copy. The metadata is converted to text and assigned a unique id such as a serial number. The processor 150 sends the e-copy with metadata to a file repository 140. The computer also sends the metadata text back to the pen. The pen 100 includes an rf-id tag writer and when it receives the metadata, it writes the metadata to the tag on the augmented document.

Alternatively, the metadata and electronic version of the document is saved in the tag as an e-copy. An e-copy may contain electronic data for the document such as pen stroke data. Alternatively, an e-copy is an electronic version of the physical document such as a scan of the document or a word file. Specification at ¶¶ 41-45.

Independent claim 15 recites:

15. A method for associating metadata with a document having a metadata dynamic read-write storage device comprising:
receiving metadata data from a digital pen using the document;
processing the metadata data to determine a biometric signature;
sending processed metadata to the digital pen including the biometric signature; and
then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.

Referring to Fig. 3B, a flow chart of an illustrative process 350 for determining and storing metadata is shown.

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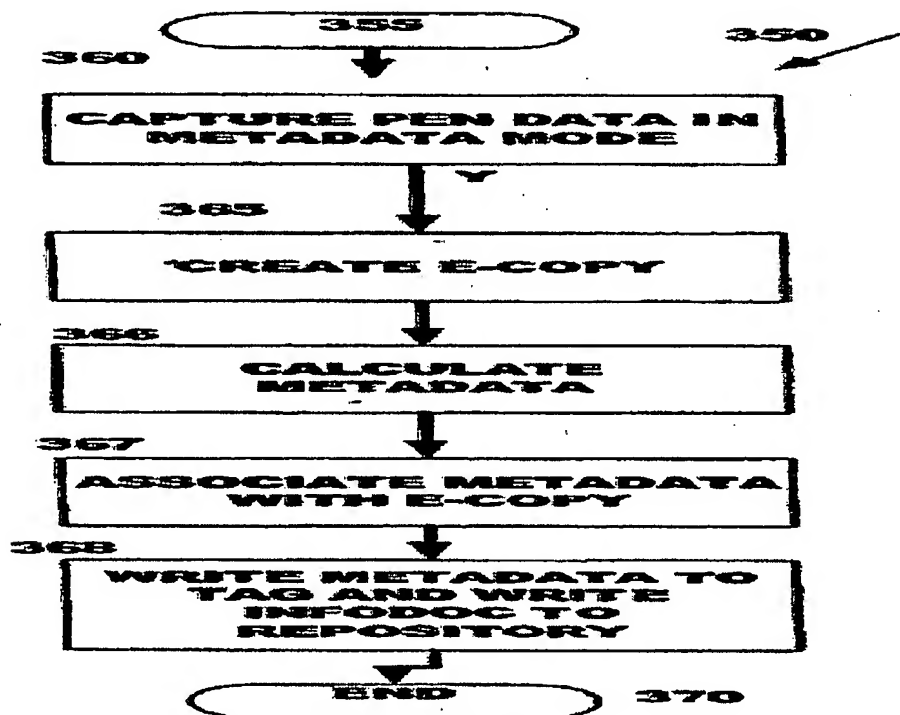


FIG. 3B

The process 350 starts in 355 and proceeds to capture pen data in metadata mode step 360. In step 365 the pen digitizes the pen strokes and creates an e-copy of the document in the pen. In step 366, the pen then senses that the document is done such as by using a signature block, a check box, duration of time or other method. The process calculates metadata based upon the pen strokes such as the biometric signature of the pen strokes. In step 367 the pen 100 associates the metadata into the e-copy and in step 368, the pen writes the metadata to the tag. Alternatively, the pen processes input strokes in order to determine if it has enough data to create the biometric signature. The pen then writes the metadata without the e-copy of the document. Specification at ¶¶ 46-47.

Additional features of the invention are discussed below in the Argument section of this Brief. This summary is not intended to supplant the description of the claimed subject matter as provided in the claims as recited in Appendix A, as understood in light of the entire specification.

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VI. Grounds of Rejection to Be Reviewed on Appeal

Whether claims 1-3 and 5-17 are patentable under 35 U.S.C. §103(a).

VII. Argument

As discussed in detail below, Appellants respectfully submit that the final rejection of claims 1-3 and 5-17 does not meet the threshold burden of presenting a prima facie case of unpatentability. Accordingly, Appellants are entitled to grant of those claims. In re Oetiker, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992).

A Claims 1-3 and 5-17 are not Unpatentable under 35 U.S.C. § 102(e)

Claims 1-3 and 5-17 are in the case and stand rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by U.S. Patent No. 6,681,045 B1 to Lapstun, et al. ("Lapstun '045") in view of U.S. Patent No. 6,941,510 B1 to Ozzie, et al. ("Ozzie '510").

Appellants respectfully disagree with the rejection and urge its reversal for at least the reasons stated below.

In rejecting a claim under 35 U.S.C. §103, the Examiner is charged with the initial burden for providing a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 375 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970). The Examiner is also required to explain how and why one having ordinary skill in the art would have been led to modify an applied reference and/or combine applied references to arrive at the claimed invention. *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); *In re Deuel*, 51 F.3d 1552, 34 USPQ 1210 (Fed. Cir. 1995); *In re Fritch*, 972 F.2d 1260, 23 USPQ 1780 (Fed. Cir. 1992); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

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Independent Claim 1 recites:

1. A method for associating metadata with a document having a metadata dynamic read-write storage device attached to the document comprising:
initializing a pointing instrument for capturing pen stroke data using the document;
processing pen stroke data in a normal data capture mode using the document;
recognizing a metadata mode;
then capturing pen stroke metadata data using the pointing instrument using the document;
sending the metadata data to a processor;
then receiving processed metadata created using the metadata from the processor; and
then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device. (emphasis added).

A1 – The references are not properly combined

Initially, Appellants respectfully submit that the references are not properly combined. Appellants respectfully submit that Ozzie '510 describes only general purpose computer memory for processing XML files and nowhere contemplates physical documents having dynamic read-write storage devices attached. In fact, XML "documents" are computer database formatted files that are not typically presented in display format as a document either in hard copy or even electronic monitor display in a browser window without processing by "Style Sheet" display "filter." Accordingly, it is clear that one of skill in the art would not look to Ozzie '510 to modify Lapstun '045 particularly because nothing in either reference or any other articulated problem suggests attaching a dynamic read-write storage device to a document. The Ozzie '510 reference is not remotely concerned with printed documents and is thus non-analogous art and not properly combined.

In the Final Rejection, the Examiner responded to Appellants earlier traversal regarding the improper combination of references stating:

Examiner respectfully disagrees because Ozzie discloses a dynamic read-write storage device with different name but the same

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function such as Ozzie discloses in-memory storage manager represents XML-compliant document used in input device such as pen/or tablet comprising the storage manager support both read-write and read-only transactions built on DSM synchronization primitives described in the documentation reference (see col. 18, lines 52-54), and wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device (because input device such as pen/tablet comprising the storage with both read-write and read-only transactions built on DSM, see col. 18, lines 52-54). For these reasons, the rejections are maintained. Final Rejection at pp. 6-7.

However, the cited 3 lines of Ozzie '510 do not reference input devices such as pens and tablets as suggested by the Examiner but rather only describe a storage manager for manipulating memory resident data structures or portions of database-like XML files – not having anything to do with documents as described in the instant patent application. The cited portion of the reference states:

The storage manager supports both read-write and read-only transactions built on DSM synchronization primitives described in the DSM documentation referenced above, which primitives insure consistency in multiple processes or computers. Col. 18, line 52-54.

The citation actually describe only memory resident data structure manipulations such as for "mutex" style mutual exclusion access where DSM is defined elsewhere in the cited patent as "distributed shared memory." Col. 13, line 42. the following sentence of the cited reference is instructive regarding the memory resident database and "mutex" focus:

Read-write transactions provide for the atomicity and consistency of a set of database read and write operations. Col. 18, line 56-58.

A2 – The references do not establish a prima facie rejection

Furthermore, Appellants respectfully submit that even if the cited references were properly combined, they do not establish a prima facie obviousness rejection.

In the Final Rejection at pages 2-3, the Examiner states:

Regarding claim 1, Lapstun et al. discloses in figure 8, a method for associating metadata with a document having a metadata storage device attached to the document (see computer system having handwritten on a paper associate with identify and coded data, see column 2, lines 57-67)

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comprising initializing a pointing instrument for capturing pen stroke data (see fig. 38, see col. 19, lines 43-45) using the document (pen 101, figure 8); processing pen stroke data in a normal data capture mode using the document; recognizing a metadata mode (see figure 49); then capturing pen stroke meta data using the pointing instrument using the document (see handwritten on a paper) sending the metadata to a processor; then receiving processed metadata created using the metadata from the processor (see column 2, lines 20-34); and then **storing the processed metadata** in the metadata storing device that is completely attached to a portion of a surface of the document (see column 36, lines 5-10).

However, Lapstun et al. does not disclose a document having a metadata dynamic read-write storage device, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.

Ozzie et al. discloses an dynamic read-write metadata storage (see in-memory storage manager represents XML-compliant document used in input device such as pen/or tablet comprising the storage manager support both read-write and read-only transactions built on DSM synchronization primitives described in the documentation reference (see col. 18, lines 52-54), and wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device (because input device such as pen/tablet comprising the storage with both read-write and read-only transactions built on DSM, see col. 18, lines 52-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the document having a metadata dynamic read-write storage device and wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device as taught by Ozzie et al. into the system of Lapstun et al. because this would utilize the read-write transactions provide for the atomicity and consistency of a set of data base read and write operations (see Ozzie, col. 18, lines 56-58).

Appellants respectfully disagree with the Examiner and urge reversal. The underlined section above is not supported in the Ozzie '510 reference. As clearly shown in the reproduced sections of Ozzie '510 above, those passages describe processing memory resident data structure processing of database-style XML file processing without any description at all of pen/tablet input or documents as described in the instant application.

Furthermore, Lapstun '045 does not teach or even suggest a dynamic read-write memory storage device attached to the page. Lapstun '045 describes its physical world

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in FIG 4 having an invisible tag 4 that is static printed data printed on a page. There is no suggestions whatsoever in Lapstun '045 of the physical paper having a memory storage device attached to it – rather the so called “netpage” system described in Lapstun '045 teaches exactly the opposite – no read-write “memory” for data storage on the physical “netpage” but rather only visible and invisible static printing on the page that is used to reference remote computer storage. The so-called netpage tags described in Lapstun '045 are merely static printed information on the page that are read by a sensor in the pen. See Col. 10, line 45 through Col. 11, line 67.

Therefore, it is clear that Lapstun '045 describes only static printed data on the document and no dynamic read-write memory storage whatsoever on the document. Accordingly, Appellants respectfully submit that even if the cited references were properly combined, they do not establish a prima facie obviousness rejection.

Accordingly, Appellants respectfully submit that the rejection is in error and urge its reversal.

Dependent claims 2-3 and 5-14 are patentable for at least the same reasons as described above with reference to claim 1.

Furthermore, with regard to dependent claim 3, Applicants respectfully resubmit that the references do not teach or suggest:

wherein the metadata includes a character representation of the captured pen stroke metadata and wherein the metadata storage device is attached to the predefined area of the document.

The cited portions of Lapstun '045 appear to suggest applying color palette selections to pen strokes, but do not teach or suggest metadata comprising character text versions of the pen strokes.

Regarding claim 7, Applicants respectfully submit that Lapstun '045 does not teach or suggest storing biometric metadata on the document.

The cited portions of Lapstun '045 appear to suggest using biometrics stored in a backend application user record, do not teach or suggest storing biometric metadata on the document.

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Regarding claim 13, Applicants respectfully submit that Lapstun '045 does not teach or suggest deciding when to stop capturing metadata.

Independent Claim 15 recites:

15. A method for associating metadata with a document having a metadata dynamic read-write storage device comprising:
receiving metadata data from a digital pen using the document;
processing the metadata data to determine a biometric signature;
sending processed metadata to the digital pen including the biometric signature; and
then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.
(emphasis added).

Claim 15 is patentable over the cited references for at least the reasons stated above with reference to claim 1. The digital pen of Lapstun '045 does not facilitate storage of processed metadata in a dynamic read-write storage device attached to the document.

Dependent claims 16-17 are patentable for at least the same reasons as described above with reference to claim 15. With regard to claim 16, only a generic reference to cryptography in Lapstun '045 is provided.

Accordingly, Appellants respectfully submit that the Examiner has failed to establish a prima facie case for an obviousness rejection. Appellants respectfully submit that claims 1-3 and 5-17 are patentable over the available cited references and that the final rejection is in error and should be reversed.

For at least the above stated reasons, Appellants respectfully submit that the final rejection as to claims 1-3 and 5-17 is in error and should be reversed.


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IX. Conclusion

In Conclusion, Appellants respectfully submit that the final rejection of claims 1-3 and 5-17 is in error for at least the reasons given above and should, therefore, be reversed.

Respectfully submitted,


George M. Macdonald
Reg. No. 39,284
Attorney for Appellants
Telephone (203) 924-3180

PITNEY BOWES INC.
Intellectual Property and Technology Law Department
35 Waterview Drive, P.O. Box 3000
Shelton, CT 06484-8000

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VIII – CLAIMS APPENDIX
APPENDIX A

1. A method for associating metadata with a document having a metadata dynamic read-write storage device attached to the document comprising:
 - initializing a pointing instrument for capturing pen stroke data using the document;
 - processing pen stroke data in a normal data capture mode using the document;
 - recognizing a metadata mode;
 - then capturing pen stroke metadata data using the pointing instrument using the document;
 - sending the metadata data to a processor;
 - then receiving processed metadata created using the metadata from the processor; and
 - then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.
2. The method of claim 1 further comprising:
 - receiving a process metadata command, wherein the pointing instrument is a digital pen and wherein a user uses the digital pen and the document to generate the process metadata command; and
 - assigning a unique serial number to the metadata.
3. The method of claim 2 wherein the metadata data comprises pen stroke data captured using the digital pen and the document from a predefined area of the document, wherein the metadata includes a character representation of the captured pen stroke metadata and wherein the metadata storage device is attached to the predefined area of the document.

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5. The method of claim 2 wherein the metadata data is pen stroke data captured from all pen strokes made on the document.
6. The method of claim 2 wherein the metadata data is pen stroke data captured from a first subset of all pen strokes made on the document.
7. The method of claim 2 wherein the metadata includes biometric data.
8. The method of claim 2 further comprising: storing an e-copy of the document strokes to the metadata storage device.
9. The method of claim 2 wherein the metadata storage device comprises an integrated circuit.
10. The method of claim 1 wherein the document comprises a piece of paper.
11. The method of claim 1 wherein the document comprises a spiral bound book.
12. The method of claim 1 further comprising:
cryptographically processing the metadata using authentication data.
13. The method of claim 1 further comprising:
discontinuing capturing metadata data after sufficient data to create a biometric signature is obtained.
14. The method of claim 1 wherein:
the processed metadata is a subset of the metadata data.

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15. A method for associating metadata with a document having a metadata dynamic read-write storage device comprising:

receiving metadata data from a digital pen using the document;

processing the metadata data to determine a biometric signature;

sending processed metadata to the digital pen including the biometric signature;

and

then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the digital pen is utilized to facilitate storing the processed metadata in the dynamic read-write storage device.

16. The method of claim 15, further comprising:

cryptographically processing the metadata.

17. The method of claim 16, wherein:

the processed metadata includes an e-copy representation of stroke data received from the digital pen.

21. A method for associating metadata with a document having a metadata dynamic read-write storage device attached to the document comprising:

initializing a pointing instrument for capturing pen stroke data using the document;

processing pen stroke data in a normal data capture mode using the document;

recognizing a metadata mode;

then capturing pen stroke metadata data using the pointing instrument using the document;

sending the metadata data to a processor;

then receiving processed metadata created using the metadata from the processor; and

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then storing the processed metadata in the dynamic read-write metadata storage device that is completely attached to a portion of a surface of the document, wherein the processed metadata includes text data, further comprising:

receiving a process metadata command, wherein the pointing instrument is a digital pen and wherein a user uses the digital pen and the document to generate the process metadata command; and

assigning a unique serial number to the metadata, wherein:

the metadata storage device comprises an rf-id tag and wherein a transceiver within the digital pen is utilized to program the dynamic read-write metadata storage device and wherein the digital pen is brought into proximity of the rf-id tag during the programming.

22. The method of claim 21 wherein the metadata data comprises pen stroke data captured using the digital pen and the document from a predefined area of the document.

23. The method of claim 21 wherein the metadata includes biometric data.

24. The method of claim 21 further comprising storing an e-copy of the document strokes to the metadata storage device.

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Appendix IX – Evidence Appendix

None

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Appendix X – Related Proceedings Appendix

None

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